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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Barry Boone

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SCHWEGMAN, LUNDBERG & WOESSNER/EBAY

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MINNEAPOLIS, MN 55402

EXAMINER

POND, ROBERT M

ART UNIT

PAPER NUMBER

3625

NOTIFICATION DATE

DELIVERY MODE

08/22/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPTO@SLWIP.COM

Office Action Summary	Application No. 09/905,525	Applicant(s) BOONE ET AL.	
	Examiner Robert M. Pond	Art Unit 3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Amendment 6/10/08; IDS 7/16/08.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-4, 6-25 and 41-53 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-25 and 41-53 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>7/16/08</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection.

Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.

Applicant's submission filed on 10 June 2008 has been entered.

Response to Amendment

Applicants amended claims 1, 7, 14, 18, 25 and 41-45 and newly added claims 46-53. Claims 5 and 26-40 are canceled. All pending claims 1-4, 6-25 and 41-53 were examined in this non-final office action.

Response to Arguments

Applicant's arguments, see Remarks, filed 10 June 2008, with respect to the rejection(s) of claim(s) 1-4, 6-25 and 41-53 under 35 USC 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of eBay, Suzuki and BidnBuy and supporting references for dependent claims. eBay alone under 103(a) was withdrawn in favor of eBay in view of

Suzuki further in view of BidnBuy in light of amendments. Applicants' argument pertaining to map file generation and second plurality of records is addressed below.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

1. Claims 25 and 52 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Regarding claim 25, Applicants are claiming a system (apparatus) yet lack apparatus structural specificity for claimed functionality. A single statutory class of subject matter has not been properly claimed. Correction is required.

Regarding claim 52, Applicants are claiming modules defined as software lacking a tangible embodiment containing instructions necessary to cause a computer to execute the claimed processes. Correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

- 2. Claims 25 and 52 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

Regarding claim 25, Applicants are claiming a system (apparatus) yet lack apparatus structural specificity for claimed functionality. Correction is required to correct statutory class ambiguity. Examination was based on the assumption Applicants are claiming a system whereby a computer or server is providing structure necessary to perform the claimed functionality.

Regarding claim 52, Applicants are claiming modules defined as software. For examination purposes it is assumed the software is stored in computer-readable medium containing instructions necessary to cause a computer or server to execute the claimed processes. Correction is required.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

- 3. Claims 1- 3, 6-10, 12, 14-22, 24, 25, 46-48 and 53 are rejected under 35 USC 103(a) as being unpatentable over eBay (Paper #20070530, PTO-892, Item: U) in view of Suzuki (US 5,418,949) further in view of BidnBuy (PTO-892, Item: U).**

eBay teaches a main web site containing directed links to region-specific auction web sites that include offerings. eBay further teaches:

- Regarding claim 1. eBay teaches a first plurality of offerings (i.e. listings) and a second plurality of offerings, both plurality of offerings associated with the United Kingdom as a regional location. U: see at least page 10. Although eBay does not mention underlying computer processing techniques generating a map file for grouping first and second records, Suzuki on the other hand teaches a file storage management system comprising a relation-classified page map file, metemap file and relation group definition file used to group records having data items relevant to each other and retrieving such related records to facilitate processing efficiency. See at least abstract; Fig. 2; col. 3, line 20-col. 4, line 5; col. 4, line 55-col. 5, line 51. One of ordinary skill in the art at time the invention was made would have recognized that applying the known techniques of Suzuki of grouping related records to facilitate a reduction in processing would have yielded predictable results and resulted in an improved system. It would have been recognized that applying the techniques of Suzuki to the teachings of eBay's related plurality of item listings would have yielded predictable results because the level of ordinary skill in the art demonstrated by the references applied shows the ability to incorporate such data processing features into similar systems.

Obviousness under 35 USC 103 in view of the Supreme Court decision
KSR International Co. vs. Teleflex Inc.

eBay and Suzuki further teach and suggest:

- Regarding claims 1 and 3. receiving a request from a user; determining a site that a user accesses, the site being one of multiple sites operated by a network-based commerce facility; main web page displayed on via a web browser provides an active link to Canada site, UK site, and Germany site (eBay: Paper #20070530, U: page1, "UK Link") (i.e. pre-defined multiple regional sites). Clicking the UK link results in the UK main web page being displayed (please note: a site that a user accesses was determined; receiving a request from the user) (eBay: Paper #20070530, U: see page 8). Inherent in eBay are the structures necessary to permit the site being one of a multiple sites operated by a networked-based commerce facility. For example, the web browser is displaying web pages using a markup language being served by a computer-based system communicating over the Internet that manages the commerce information being displayed.
- Regarding claim 1: eBay teach and Suzuki teach and suggest all the above as noted under the 103(a) rejection and teach and suggest i) grouping a first plurality of records with a second plurality of records, records being offerings associated with a particular region, ii) a user browsing items located in the UK and listing items in US dollars or local

UK currency (eBay: Paper #20070530, U: see at least page 15, e.g. STYLOPHONE- Cool 1960's Instrument) and further teach and suggest using a local currency converter to convert from US dollars to United Kingdom pounds or vice versa or other supported currencies (e.g. Euros), the results being displayed to the user (Paper #20070530, U: page 17). Although eBay and Suzuki do not mention the first offering including a listing currency and a native currency that is associated with the particular region, BidnBuy (www.bidnbuy.com) on the other hand teaches BidnBuy challenging eBay in the European auction market with a database driven to cover multiple product types and more than 166 countries. The site is registered with more than 400 online search engines. BidnBuy's features include dual currency meters so that a visitor from Japan would obtain a matching price in Yen. Currency conversions can be customized to a particular user. If you logged in from Ireland, your default currency would be the Punt. Anywhere an approximated dollar value is displayed, a visitor's local currency would be displayed beside it. U: see at least pages 1-3. One of ordinary skill in the art at time the invention was made would have recognized that applying the known techniques of BidnBuy listing dual currencies (default and local) would have yielded predictable results and resulted in an improved system. It would have been recognized that applying the techniques of Suzuki to the teachings of eBay and

Suzuki of grouping related records to facilitate a reduction in processing would have yielded predictable results because the level of ordinary skill in the art demonstrated by the references applied shows the ability to incorporate such data processing features into similar systems. Obviousness under 35 USC 103 in view of the Supreme Court decision *KSR International Co. vs. Teleflex Inc.*

- and a view selection link to the user, the accessed UK site displays a category list and allows the user to search the UK site for items available in the UK or items located in the UK (eBay: Paper #20070530, U: see page 8),
- Regarding claim 6. displaying in a particular order. displays categories in alphabetical order (eBay: Paper #20070530, U: at least pages 1, 8, 9).
- Regarding claim 8. offering listing characteristics, Ending Today New Today, Completed” (eBay: Paper #20070530, U: page 15); current auction price (eBay: Paper #20070530, U: at least page 15).
- Regarding claim 10. shipping region. Inherent in eBay are computing structures necessary to permit offering listing characteristics that include a shipping region offering. For example, the UK web page allows a user to search for items located in UK and to search for items available in UK (please note: seller listing characteristic indicate shipping regions) (eBay: Paper #20070530, U: see pages 4 and 8).

- Regarding claim 7, 9, 12, 14-22, 24, 25 and 53. Rejections are based on the teachings and rationale as noted above.
- Regarding claims 46-48. second plurality of offerings in a pre-defined language and predefined currency and includes the UK. eBay: Paper #20070530, U: see at least pages 10-16.

4. Claims 4 and 52 are rejected under 35 USC 103(a) as being unpatentable over eBAY (Paper #20070530, PTO-892, Item: U), Suzuki (US 5,418,949) and BidnBuy (PTO-892, Item U) as applied to claim 1, further in view of Applicants' Admission (regarding parsing of universal resource locators).

eBay, Suzuki and BidnBuy teach and suggest all the above as noted under the 103(a) rejection and further teach and suggest universal resource locators (URLs) being used by the web browser to access web pages served by the eBay web site. Although eBay, Suzuki and BidnBuy do not mention parsing URLs, Applicants' Admissions on the other hand provides a tutorial on how URLs are parsed. One of ordinary skill in the art at time the invention was made would have recognized that applying the known techniques of Applicants' Admissions of parsing URLs would have yielded predictable results and resulted in an improved system. It would have been recognized that applying the techniques of Applicants' Admissions to the teachings of eBay, Suzuki and BidnBuy would have yielded predictable results because the level of ordinary skill in the art demonstrated by the references applied shows the ability to incorporate such

data processing features into similar systems. Obviousness under 35 USC 103 in view of the Supreme Court decision *KSR International Co. vs. Teleflex Inc.*

5. Claims 11 and 23 are rejected under 35 USC 103(a) as being unpatentable over eBay (Paper #20070530, PTO-892, Item: U), Suzuki (US 5,418,949) and BidnBuy (PTO-892, Item U) as applied to claims 1, 8 and 20, further in view of McClenahen (Paper #20070530, PTO-892, Item: V)

eBay, Suzuki and BidnBuy teach and suggest all the above as noted under the 103(a) rejection and teach and suggest i) a user accessing region-specific sites via a main web page (e.g. US region-specific sites, Canada, UK, and Germany region-specific sites), ii) a user within the UK region-specific site, displaying in English to the user items for auction located in the UK, iii) within the Canada region-specific site, display in English to the user items for auction located in Canada and further teach and suggest Japanese visitors using the site. Although eBay, Suzuki and BidnBuy do not mention the offering listing characteristics including a listing language of the offering, McClenahen on the other hand teaches e-commerce as being revolutionary and evolutionary and mentions eBay's web site garnering a huge numbers of hits (Paper #20070530, V: see pages 1 and 2). McClenahen further teaches relatively easy access to PCs, relatively high levels of disposable income, and predominantly English-language content are three reasons e-commerce, especially business to-consumer e-commerce, is mainly a North American phenomenon now, says

Andersen's Johnson. In some of the world's other significant economies-such places as France, Germany, and Japan- language is holding back e-commerce growth. Nevertheless, "it will evolve, and it will evolve following a pattern of first [having] access and second [having] content that is useful," says Johnson. One of ordinary skill in the art at time the invention was made would have recognized that applying the known techniques of McClenahen of listing in the local language would have yielded predictable results and resulted in an improved system. It would have been recognized that applying the techniques of McClenahen to the teachings of eBay, Suzuki and BidnBuy would have yielded predictable results because the level of ordinary skill in the art demonstrated by the references applied shows the ability to incorporate such data processing features into similar systems. Obviousness under 35 USC 103 in view of the Supreme Court decision *KSR International Co. vs. Teleflex Inc.*

- 6. Claim 13 is rejected under 35 USC 103(a) as being unpatentable over eBay (Paper #20070530, PTO-892, Item: U), Suzuki (US 5,418,949) and BidnBuy (PTO-892, Item U) as applied to claim 7, further in view of Pollick (Paper #20041209, PTO-892, Item: VV).**

eBay, Suzuki and BidnBuy teach and suggest all the above as noted under the 103(a) rejection and teach and suggest transacting auctions globally via the eBay sites, but do not mention fixed price transactions. Pollick on the other hand teaches eBay and Amazon auction sites, and further teaches Zshops, a fixed-

price alternative to auctions being implemented by Amazon as a customer service (Paper #20041209, VV: see at least page 5). One of ordinary skill in the art at time the invention was made would have recognized that applying the known techniques of Pollick offering products at a fixed price would have yielded predictable results and resulted in an improved system. It would have been recognized that applying the techniques of Pollick to the teachings of eBay, Suzuki and BidnBuy would have yielded predictable results because the level of ordinary skill in the art demonstrated by the references applied shows the ability to incorporate such data processing features into similar systems. Obviousness under 35 USC 103 in view of the Supreme Court decision *KSR International Co. vs. Teleflex Inc.*

7. Claims 41-45 and 49 are rejected under 35 USC 103(a) as being unpatentable over eBay (Paper #20070530, PTO-892, Item: U), Suzuki (US 5,418,949) and BidnBuy (PTO-892, Item U) as applied to claim 1.

eBay, Suzuki and BidnBuy teach and suggest all the above as noted under the 103(a) rejection and teach and suggest i) a first plurality of records (note: item listings) and second plurality of records related to the first based on location, the records displaying a list currency, the records accessible via an icon for alternative views (eBay), ii) grouping related records for more efficient processing (Suzuki) and iii) listing in records in a defined currency associated with the regional site (BidnBuy). It would have been obvious to try, by one of ordinary skill

in the art at time the invention was made, to replicate the first-second record relationship with a second-third record relationship and incorporate it into the system of eBay, Suzuki and BidnBuy since there are a finite number of identified, predictable potential solutions to the recognized need and one of ordinary skill in the art could have pursued the known potential solutions with a reasonable expectation of success. Obviousness under 35 USC 103 in view of the Supreme Court decision *KSR International Co. vs. Teleflex Inc.*

- 8. Claim 50 and 51 is rejected under 35 USC 103(a) as being unpatentable over eBay (Paper #20070530, PTO-892, Item: U), Suzuki (US 5,418,949) and BidnBuy (PTO-892, Item U) as applied to claims 1 and 49, further in view of Falulkner (US 6,389,427).**

eBay, Suzuki and BidnBuy teach and suggest all the above as noted under the 103(a) rejection and teach and suggest i) generating a map file and ii) a first plurality of records (note: item listings) and second plurality of records related to the first based on location, the records displaying a list currency, the records accessible via an icon for alternative views (eBay) and iii) a third plurality of records and iv) listing in records in a defined currency associated with the regional site (BidnBuy). Although eBay, Suzuki and BidnBuy do not mention generating the map file is repeatedly performed on a period of time based on storing the third plurality of records, Faulkner on the other hand teaches a system and method of enhancing file system performance and creating or re-creating a

map file based on periodic time intervals and specific dates and times. Faulkner further teaches automatically re-creating the map file each time the application starts (note interpretation: frequency of application starts). See at least abstract; col. 23, lines 14-24; col. 27-31. One of ordinary skill in the art at time the invention was made would have recognized that applying the known techniques of Faulkner of map file creation/re-creation would have yielded predictable results and resulted in an improved system. It would have been recognized that applying the techniques of Faulkner to the teachings of eBay, Suzuki and BidnBuy would have yielded predictable results because the level of ordinary skill in the art demonstrated by the references applied shows the ability to incorporate such data processing features into similar systems. Obviousness under 35 USC 103 in view of the Supreme Court decision *KSR International Co. vs. Teleflex Inc.*

eBay, Suzuki and BidnBuy teach and suggest all the above as noted under the 103(a) rejection and teach and suggest i) generating a map file and ii) a first plurality of records (note: item listings) and second plurality of records related to the first based on location, the records displaying a list currency, the records accessible via an icon for alternative views (eBay) and iii) a third plurality of records and iv) listing in records in a defined currency associated with the regional site (BidnBuy). Although eBay, Suzuki and BidnBuy do not mention the map file includes an index to the second plurality of records, Faulkner on the other hand teaches a system and method of enhancing file system performance and creating or re-creating a map file. Faulkner further teaches automatically

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creating and maintaining a high-performance index of monitored directories or files. See at least col. 2, lines 45-52. One of ordinary skill in the art at time the invention was made would have recognized that applying the known techniques of Faulkner creating and maintaining a high-performance index of directories or files would have yielded predictable results and resulted in an improved system. It would have been recognized that applying the techniques of Faulkner to the teachings of eBay, Suzuki and BidnBuy of a second plurality of records would have yielded predictable results because the level of ordinary skill in the art demonstrated by the references applied shows the ability to incorporate such data processing features into similar systems. Obviousness under 35 USC 103 in view of the Supreme Court decision *KSR International Co. vs. Teleflex Inc.*

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert M. Pond whose telephone number is 571-272-6760. The examiner can normally be reached on 8:30AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Jeff Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert M. Pond/
Primary Examiner, Art Unit 3625
August 17, 2008